

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 990

92ND GENERAL ASSEMBLY

Reported from the Committee on Small Business, Insurance and Industrial Relations, January 29, 2004, with recommendation that the Senate Committee Substitute do pass.

2894S.06C

TERRY L. SPIELER, Secretary.

AN ACT

To amend chapter 324, RSMo, by adding thereto eleven new sections relating to the powers and duties of the Missouri electrical industry licensing board, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 324, RSMo, is amended by adding thereto eleven new sections, to be known as sections 324.808, 324.809, 324.810, 324.815, 324.820, 324.825, 324.830, 324.835, 324.837, 324.840, and 324.845, to read as follows:

324.808. As used in sections 324.808 to 324.845, unless the context clearly means otherwise, the following terms shall mean:

(1) "BAT", Bureau of Apprenticeship and Training, a bureau within the United States Department of Labor;

(2) "Board", the Missouri electrical industry licensing board;

(3) "Certifying entity", the nongovernmental agency or association which certifies or registers individuals who have completed academic and training requirements;

(4) "Director", the director of the division of professional registration;

(5) "Division", the division of professional registration within the department of economic development;

(6) "Electrical contracting", the business of designing, installing, erecting, repairing, or altering electrical wires or conductors equal to or in excess of fifty volts, to be used for light, heat, or power. The term includes the installation or repair of ducts, raceways, or conduits, for the reception or protection of wires or conductors, or the installation or repair of any electrical machinery, apparatus, or system used for electrical light, heat, or power; however, electrical contracting shall not include work done by any employee of an electric utility corporation, municipal utility, rural electric cooperative, federally licensed radio and television

broadcast stations, telecommunications companies, as defined by subdivision 5 of section 386.020, RSMo, or private broadcast engineering contractors possessing a valid Society of Broadcast Engineers certification;

(7) "Electrical contractor", a person engaged in electrical contracting;

(8) "Journeyman electrician", an individual that is qualified to perform electrical work without supervision;

(9) "License", a valid license issued or recognized by the electrical industry licensing board;

(10) "Nonpublic member", an individual who represents a professional association on the board;

(11) "Person", an individual, corporation, partnership, association, or other legal entity;

(12) "Public member", an individual who represents the public and not a professional association on the board.

324.809. 1. There is hereby created within the division of professional registration a board to be known as the "Missouri Electrical Industry Licensing Board". The board shall consist of seven voting members including one public member, all of whom shall be citizens of the United States and domiciled within this state. The governor shall appoint the members of the board with the advice and consent of the senate for terms of four years; except as provided in subsection 3 of this section. The six nonpublic members shall hold an electrical contractor's license for at least five years immediately preceding the person's appointment to the board and shall at all times be holders of an electrical contractor license in this state. All nonpublic members shall be chosen from lists submitted by the director of the division of professional registration who shall inquire of Independent Electrical Contractors Association, Associated Builders and Contractors, and National Electrical Contractors Association, to obtain the names of individuals to be considered. The governor shall appoint nonpublic members as follows:

(1) Two members belonging to Associated Builders and Contractors;

(2) Two members belonging to the Independent Electrical Contractors Association; and

(3) Two members belonging to the National Electrical Contractors Association.

2. No person shall be eligible for reappointment to the board who has served as a member for a total of eight years. A vacancy in the office of any board member shall only be filled for the unexpired term.

3. The initial appointments to the board shall be two members for terms of

two years, two members for terms of three years, two members for terms of four years, and one public member for a term of four years.

4. Any member of the board may be removed from the board by the governor for neglect of duty required by law, for incompetency or for unethical or dishonest conduct. Upon the death, resignation, disqualification, or removal of any member of the board, the governor shall appoint a successor.

324.810. 1. The board shall elect annually a chairperson and a vice chairperson from their number.

2. The division, in collaboration with the board, shall adopt, implement, rescind, amend, and administer such rules and regulations as may be necessary to carry out the provisions of sections 324.808 to 324.845. The division, in collaboration with the board, may promulgate necessary rules compatible with sections 324.808 to 324.845, including, but not limited to, rules relating to professional conduct, continuing competency requirements for renewal of licenses, approval of continuing competency programs and to the establishment of ethical standards of practice for persons holding a license pursuant to sections 324.808 to 324.845.

3. The board shall convene at the request of the director or as the board shall determine. The board shall hold regular meetings at least four times per year.

4. Each member of the board shall receive as compensation, an amount set by the division not to exceed fifty dollars per day, for each day devoted to the affairs of the board and may be reimbursed for actual and necessary expenses incurred in the performance of the member's official duties.

5. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

324.815. 1. For the purpose of sections 324.808 to 324.845, the division shall:

(1) Employ, within the limits of the appropriations for that purpose, employees as are necessary to carry out the provisions of sections 324.808 to 324.845;

(2) Exercise all administrative functions;

(3) Establish all applicable fees, set at an amount which shall not substantially exceed the cost of administering sections 324.808 to 324.845;

(4) Deposit all fees collected pursuant to sections 324.808 to 324.845, by transmitting such funds to the department of revenue for deposit to the state treasury to the credit of the Missouri electrical industry licensing board fund; and

(5) Approve or disapprove certifying entities for professions within the

electrical industry included in the scope of sections 324.808 to 324.845.

2. The division may terminate recognition of any certifying entity included in the scope of sections 324.808 to 324.845 following a subsequent review of the certification of registration procedures of a certifying entity.

324.820. 1. The applicant applying for an electrical contractor's license shall be twenty-one years of age, a United States citizen, provide proof of insurance, and post a bond in an amount set by the board. The applicant shall have:

(1) Passed an electrical assessment test equivalent to the Experi Exam at the master electrician's level administered by a third party;

(2) Completed twelve thousand verifiable practical hours installing equipment and associated wiring;

(3) Completed ten thousand verifiable practical hours installing equipment and associated wiring and received an electrical journeyman certificate from a BAT-approved electrical apprenticeship program;

(4) Received an associate's degree from a state-accredited program and eight thousand verifiable practical hours installing equipment and associated wiring; or

(5) Received a four-year electrical engineering degree and four thousand verifiable practical hours installing equipment and associated wiring.

2. The certification requirement shall be waived for those electrical contractors who apply for a waiver with the board on or before March 1, 2005. Electrical contractors practicing prior to March 1, 2005, shall be eligible for a waiver of certification as follows:

(1) Electrical contractors who currently hold an electrical license that is in good standing which was issued by any authority in this state that requires a written test to obtain such license shall be issued a new state electrical contractor license; or

(2) Electrical contractors who currently hold an electrical license that is in good standing which was issued by any authority in this state that does not require a written test to obtain such license may apply to the board for a limited electrical contractor license. Such application shall include a list of the counties for which the applicant seeks authorization to practice as an electrical contractor; or

(3) Any person who was operating as an electrical contractor prior to August 28, 2004, in an area where no electrical license was required to operate such business shall be granted a waiver of the certification requirement provided that the applicant:

(a) Has completed twenty thousand verifiable practical hours installing equipment and associated wiring related to this license and has applied for a

limited electrical contractor's license;

(b) Has taken an electrical contractors test; or

(c) Applied for a temporary limited electrical contractor license on or before March 1, 2004, while awaiting passage of an electrical contractors examination. Such license shall expire two years after issuance, and may not be renewed.

3. Notwithstanding any provision of sections 324.808 to 324.845 to the contrary, any person operating as an electrical contractor in an area where no electrical license is required to operate as such, shall not be required to possess a license pursuant to sections 324.808 to 324.845 in order to continue to operate as an electrical contractor in such political subdivision.

4. The division, in collaboration with the board, may negotiate reciprocal contracts with other states, the District of Columbia, or territories of the United States which require standards for licensure, registration, or certification considered to be equivalent or more stringent than the requirements for licensure pursuant to sections 324.808 to 324.845.

5. Upon the death or termination of the licensed electrical contractor, the business which such person represented shall have one year following the date of the death or termination of employment of the licensed electrical contractor to provide the state with the name of a licensed electrical contractor who shall hold the license on behalf of the business.

324.825. The "Missouri Electrical Industry Licensing Board Fund" is hereby created. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in the Missouri electrical industry licensing board fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds three times the amount of appropriation from the fund for the preceding fiscal year. All fees shall be set at an amount which shall not substantially exceed the cost of administering sections 324.808 to 324.845.

324.830. 1. The division shall mail a renewal notice to the last known address of each person licensed pursuant to sections 324.808 to 324.845 prior to the renewal date. Failure to provide the division with the information required for renewal or to pay the required fee after such notice shall result in the license being declared inactive and the licensee shall not practice until he or she applies for reinstatement and pays the required fees. The license shall be restored if the application is received within two years of the renewal date.

2. Upon request, the division, in collaboration with the board, may grant inactive status to a licensee, if the person:

(1) Does not hold himself or herself out as possessing a license required pursuant to sections 324.808 to 324.845 in this state;

(2) Maintains any continuing competency requirements established by the division, in collaboration with the board; and

(3) Remits any fee that may be required.

324.835. 1. The board may refuse to issue or renew any certificate of registration or authority, permit or license required pursuant to sections 324.808 to 324.845 for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit, or license required by sections 324.808 to 324.845 or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit, or license for any one or any combination of the following causes:

(1) Use or unlawful possession of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of an electrician;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions, or duties of any profession licensed or regulated by sections 324.808 to 324.845, for any offense an essential element of which is fraud, dishonesty, or an act of violence, or for any offense involving moral turpitude, regardless of whether a sentence is imposed;

(3) Use of fraud, deception, misrepresentation, or bribery in securing any certificate of registration or authority, permit, or license issued pursuant to sections 324.808 to 324.845 or in obtaining permission to take any examination given or required pursuant to sections 324.808 to 324.845;

(4) Obtaining or attempting to obtain any fee, charge, tuition, or other compensation by fraud, deception, or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation, or dishonesty in the performance of the functions and duties of any profession licensed or regulated by sections 324.808 to 324.845;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 324.808 to 324.845 or any lawful rule or regulation adopted pursuant to

sections 324.808 to 324.845;

(7) Impersonation of any person holding a certificate of registration or authority, permit, license, or allowing any person to use his or her certificate of registration or authority, permit, license, or diploma from any school;

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by sections 324.808 to 324.845 granted by another state, territory, federal agency, or country upon grounds for which revocation or suspension is authorized in this state;

(9) A person is finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by sections 324.808 to 324.845 who is not registered and currently eligible to practice pursuant to sections 324.808 to 324.845;

(11) Issuance of a certificate of registration or authority, permit, or license based upon a material mistake of fact;

(12) Violation of any professional trust or confidence;

(13) Use of any advertisement or solicitation which is false, misleading, or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(14) Unethical conduct as defined in the ethical standards adopted by the division and filed with the secretary of state;

(15) Violation of the drug laws or rules and regulations of this state, any other state, or federal government.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds provided in subsection 2 of this section for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation with such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or may revoke the license, certificate, or permit.

4. An individual whose license has been revoked shall wait at least one year from the date of revocation to apply for relicensure. Relicensure shall be at the discretion of the board after compliance with all requirements of sections 324.808 to 324.845 relative to the licensing of the applicant for the first time.

324.837. It is unlawful for any person in this state to hold himself out as, or engage in business as an electrical contractor, unless such person has first obtained a license pursuant to sections 324.808 to 324.845. Any person licensed

pursuant to sections 324.808 to 324.845 may exercise the privilege thereby granted within this state and shall not be required by any municipality or other political subdivision having authority to adopt local regulations or ordinances to obtain any other license in order to exercise such privilege.

324.840. 1. Any person or corporation who knowingly violates any provision of sections 324.808 to 324.845 is guilty of a class B misdemeanor.

2. Any officer or agent of a corporation or member or agent of a partnership or association, who knowingly and personally participates in, or is an accessory to, any violation of sections 324.808 to 324.845 is guilty of a class B misdemeanor.

3. The provisions of this section shall not be construed to release any person from civil liability or criminal prosecution pursuant to any other law of this state.

4. The division, in collaboration with the board, may cause a complaint to be filed for any violation of sections 324.808 to 324.845 in any court of competent jurisdiction and perform such other acts as may be necessary to enforce the provisions of sections 324.808 to 324.845.

324.845. The provisions of sections 23.250 to 23.298, RSMo, shall not apply to the provisions of sections 324.808 to 324.845.

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